

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH

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IN THE MATTER OF THE LICENSE OF  
**LISA GAY KENDALL**  
TO PRACTICE AS A **REGISTERED NURSE**  
IN THE STATE OF UTAH

**DEFAULT ORDER**  
CASE NO. DOPL-OSC -2010-434

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**BY THE DIVISION:**

The attached Notice of Entry of Default, Findings of Fact, Conclusions of Law and Recommended Order is hereby adopted by the Division of Occupational and Professional Licensing of the State of Utah. Respondent's license to practice as a registered nurse is thus revoked, effective the date of this Order.

IT IS FURTHER ORDERED that the revoked license, both wall and wallet sizes, as well as any embossed certificate, be surrendered to the Division of Occupational and Professional Licensing.

Dated this 3<sup>rd</sup> day of January 2012



W. Ray Walker  
W. Ray Walker  
Acting Director for Mark B. Steinagel  
Division of Occupational  
and Professional Licensing

Pursuant to Subsection 63G-4-209(2), Respondent may seek to set aside the above stated Default Order by filing such a request with the Division consistent with the procedures outlined in the Utah Rules of Civil Procedure.

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**IN THE MATTER OF THE LICENSE OF  
LISA GAY KENDALL  
TO PRACTICE AS A REGISTERED NURSE  
IN THE STATE OF UTAH**

**NOTION OF ENTRY OF DEFAULT  
FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER  
CASE NO. DOPL-OSC-2-2010-434**

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**BY THE ADMINISTRATIVE LAW JUDGE:**

This adjudicative proceeding was initiated pursuant to an October 18, 2011 notice of agency action. The notice recites a response was due within twenty (20) days from the date of the notice. The notice also recites the Court would conduct a prehearing teleconference on November 28, 2011. Further, the notice recites a December 7, 2011 hearing is scheduled to be conducted before the Nursing Board.

The Court thus conducted the November 28, 2011 teleconference with L. Mitchell Jones, counsel for the Division of Occupational and Professional Licensing through the Office of the Utah Attorney General, and Respondent. The latter had not filed a response as of the date of that teleconference.

Respondent stated she would file a response by December 2, 2011. Respondent also stated she would file witness and exhibit lists by the same date. However, Respondent filed no response nor did she file any witness or exhibit lists. Respondent also failed to appear

for the December 7, 2011 hearing. The Division thus requested the entry of Respondent's default. The Court concluded a proper basis exists to enter Respondent's default and it was so entered.

After the entry of a default order, §63G-4-209(4) provides the presiding officer shall conduct further proceedings as necessary to complete the adjudicative proceeding without the participation of the party in default. §63G-209(4)(a) also provides a determination shall be made of all issues in the adjudicative proceeding, including those affecting the default party.

### **FINDINGS OF FACT**

Based on the proffer made by the Division, the Court adopts the allegations set forth in Paragraphs 1 through 4 of the October 18, 2011 Verified Motion for Order to Show Cause as its Findings of Fact. The Court also adopts the first paragraph of the legal argument in that motion as its Findings of Fact and Conclusions of Law.

### **CONCLUSIONS OF LAW**

Specifically, Respondent engaged in unprofessional conduct proscribed by §58-1-501(2)(a) when she failed to comply with certain terms and conditions governing her nursing license. Respondent failed to provide required drug samples for urinalysis on May 17, 2011 and August 11, 2011. Respondent also failed to contact the drug analysis testing program every day between August 12, 2011 and October 4, 2011.

Respondent also engaged in unprofessional conduct when she admitted to Division staff on March 26, 2011 that she had used marijuana during March 2011. Respondent further admitted she consumed alcohol on June 12, 2011 and she had also consumed alcohol since December 6, 2010 (the date that Respondent signed a stipulated agreement whereby her license was placed on probation).

Respondent also engaged in unprofessional conduct when she failed to meet with the Board as directed on January 13, 2011. Respondent further engaged in similar conduct when she failed to attend two Professionals in Recovery support group meetings as required in February 2011 and she also engaged in unprofessional conduct when she failed to submit her self-assessment, employer evaluation, professionals in recovery attendance record and 12-Step attendance record, all of which was due on June 1, 2011.

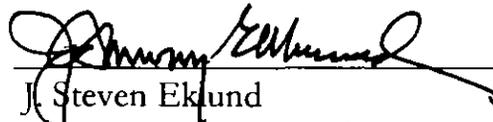
The Court thus readily finds and concludes a proper factual and legal basis exists to enter further disciplinary action as to Respondent's license. Absent any matters offered in defense or mitigation, the Court concludes the following action is warranted:

**RECOMMENDED ORDER**

WHEREFORE, IT IS ORDERED Respondent's license to practice as a registered nurse in this state shall be revoked, effective the date this Recommended Order may be adopted.

I hereby certify the foregoing **NOTICE OF ENTRY OF DEFAULT,**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER** was submitted to Mark B Steinagel, Director of the Division of Occupational and Professional Licensing, on the 20<sup>th</sup> day of December 2011 for his review and action



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J. Steven Eklund  
Administrative Law Judge  
Department of Commerce